CFPB Warns of Consumer Risks in Solar Financing and Sales Practices

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The Consumer Financial Protection Bureau (CFPB) recently **published a report** and **an associated consumer advisory** warning of risks to consumers from solar lending and encouraging consumers to shop for alternatives before committing to a product. The release coincided with the announcement of an **interagency partnership** among the Department of the Treasury, Federal Trade Commission, Department of Energy, and Department of Housing and Urban Development, with "the goal of coordinating efforts to prevent predatory practices" affecting residential solar consumers.

Noting the expansion in demand for solar-powered electricity, largely fueled by the lower costs of installing solar panels, and the potential for tax credits and for energy savings, the report focuses on the consumer risks stemming from "solar-specific" lending. The most common form of solar financing, "solar-specific" loans are generally fixed-term, fixed-rate installment loans that cover the price of the solar panels and installation. These loans are often made by nonbank financial institutions and fintechs that partner with banks to originate the loans and with solar installers to provide the materials and installation.

Main consumer risks from solar financing

The report and advisory focus on risks to consumers arising from the manner in which financing is presented to consumers, as well as the structure of the financing products themselves. The CFPB notes that solar lenders often offer financing through third-party salespeople who may deploy aggressive sales tactics or fail to explain the details of the loans. The CFPB highlights the following risks associated with solar lending products:

Hidden markups and fees

The CFPB found that some lenders "hide" markups and fees in the loan principal and do not clearly indicate that these fees (often referred to as "dealer" or "program" fees) are a markup from the cash price that consumers pay for the system and its installation. Loan documents may only show the loan principal and fail to explain that the total cost of credit is the sum of the cash price plus any hidden fees assessed by the dealer.

Statements concerning tax credits

The CFPB found that some solar loan sales pitches present a "net cost" of the loan, which makes the loan seem less expensive because it deducts the expected – but not guaranteed –30% federal tax credit from the loan principal. The CFPB cautions that highlighting the net cost of the project, versus the actual loan principal, may mislead a consumer regarding the actual loan principal, because the consumer may not be eligible for the federal tax credit depending on their federal tax liability.

'Voluntary' prepayments

The CFPB found that many solar loans are structured to require consumers to make partial prepayments, and that consumers complained they were not informed about the required prepayments at loan closing. Because the prepayments are often based on the expectation of federal tax credits, which are not guaranteed, the consumer could unexpectedly face a higher monthly payment.

Claims regarding financial savings

The CFPB indicated it identified misleading statements in marketing materials regarding consumer savings from the anticipated future price of electricity from solar panels. The CFPB also indicated concern about how this representation counters statements in loan agreements that the consumer is still obligated on the loan even if the system underperforms or fails to save the consumer money.

While the report generally discusses these concerns, it also highlights that such practices have a particularly negative impact on certain higher-risk consumer populations – such as low-income consumers, those with limited English proficiency and the elderly.

Ongoing focus expected

In a **prepared statement accompanying these releases**, CFPB Director Rohit Chopra compared the “race to the bottom” business of some solar lenders to the subprime mortgage crisis, suggesting that abusive practices risk undermining consumer confidence in the entire solar lending market. This aligned with statements made on a recent “listening tour” specifically highlighting risks associated with the fact that the products are sold by third parties.

In addition to this initiative to highlight potential risks in the solar financing market, the CFPB also has proposed rules governing property assessed clean energy (PACE) loans, which would require lenders offering PACE loans to consider a consumer’s ability to repay, as well as apply civil liability provisions of the Truth in Lending Act (TILA) to PACE loans. **An associated report** found that PACE loans caused an increase in negative credit outcomes, particularly mortgage delinquency. Per **its regulatory agenda filings**, the CFPB currently anticipates publishing a final rule governing PACE financing in spring 2025.

The CFPB’s activity, along with the new interagency partnership, demonstrates a continued interest across the Biden administration to curb consumer harms, now with a specific focus on addressing risks from residential solar sales and financing. Chopra noted that the “CFPB will be scrutinizing solar lenders to make sure that Americans don’t get burned,” and the interagency partnership release notes that the partnership will be “crucial to monitoring for fraudulent behavior.”

Cooley regulatory analyst Shane Zerr also contributed to this alert.

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